

**National Security (Legislative Provisions) Bill:  
Emergency Investigation Powers**

**Introduction**

This paper sets out the Administration's response to questions raised regarding the proposed emergency investigation powers.

**Proposed emergency powers**

2. The proposed section 18B of Crimes Ordinance provides the police with emergency investigation powers of entry, search and seizure with administrative authorization.

3. As explained in the consultation document and in an earlier paper to the joint meeting of the Panel on Security and Panel on Administration of Justice and Legal Services (Ref: CB(2)86/02-03(01)), emergency powers will be necessary in the investigation of serious offences relating to national security.

4. At present, emergency investigation powers are available under a number of ordinances, such as the Firearms and Ammunition Ordinance, Crimes Ordinance and Gambling Ordinance. A comparison of the proposed powers in the National Security (Legislative Provisions) Bill with the existing powers is provided in the table at **Annex**.

5. It should be emphasized that the investigation power as provided in the Bill is very tightly defined. In addition, taking into account the Administration's proposed Committee Stage Amendments to the Bill on 3 June 2003, the emergency powers have to be executed in a manner which is consistent with Chapter III of the Basic Law. Chapter III of the Basic Law includes Article 29 which prohibits arbitrary search of premises, and Article 39 which enshrines international human rights standards.

**Exercise of the emergency powers under existing legislation**

6. The total number of written authorizations executed under the Firearms and Ammunition Ordinance, Crimes Ordinance and Gambling Ordinance is 1,145 in 2001, and 1,130 in 2002.

Security Bureau  
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## Comparison of emergency powers under the National Security (Legislative Provisions) Bill and existing Ordinances

National Security (Legislative Provisions) Bill	Police Force Ordinance (Cap. 232) s. 10	Firearms and Ammunition Ordinance (Cap. 238) s. 40	Crimes Ordinance (Cap. 200) s. 152	Gambling Ordinance (Cap. 148) s. 23 and s. 23A
<p>A police officer at the rank of chief superintendent* or above reasonably believes that -</p> <p>(a) an offence of treason, subversion, secession, sedition or handling seditious publication has been committed or is being committed;</p> <p>(b) anything which is likely to be or likely to contain evidence of substantial value to the investigation of the offence is in any premises, place or conveyance; and</p> <p>(c) unless immediate action is taken, such evidence would be lost and the investigation of the offence would be seriously prejudiced as a result,</p> <p>he may issue an authorization for entry, search and seizure.</p>	<p>Section 10 provide that the duties of the police force shall be, <i>inter alia</i>, to take lawful measures for preventing and detecting crimes and offences; and executing such other duties as may by law be imposed on a police officer.</p> <p>Administrative authorizations to search, which the police are duty bound to execute, are available under a number of ordinances, including Firearms and Ammunition Ordinance, Crimes Ordinance, and Gambling Ordinance.</p>	<p>A police officer at the rank of superintendent or above may issue authorization for entry, search and seizure if he is satisfied (a) that there is reasonable ground for suspecting that an offence under the Ordinance has been, is being or is about to be committed; (b) that the exercise of the power is necessary; (c) there would be delay in obtaining a warrant from a magistrate; <i>and</i> (d) the delay may defeat the purposes of the entry.</p>	<p>A police officer at the rank of superintendent or above may issue authorization for entry, search and seizure if he has reason to suspect that an offence under Part XII (sexual and related offences) of the Ordinance has been or is being committed in or in respect of or in connection with any premises or place or any vessel.</p>	<p>A police officer at the rank of superintendent or above may issue authorization for entry, search and seizure if he reasonably suspects that any premises or place are or is a gambling establishment, or one of the specified offences of bookmaking is being committed or has been committed in or in relation to the premises or place.</p>

\* The rank is raised to assistant commissioner in the proposed Committee Stage Amendments to the Bill on 3 June 2003.